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Appendix III



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Radamés (Rudy) A. Torruella

Since he started practicing law, Mr. Torruella has dedicated himself almost exclusively to the field of labor and employment law. His practice has been concentrated on discrimination and sexual harassment, litigation in local and federal courts, collective bargaining, administration and interpretation of collective bargaining agreements, arbitration, labor injunctions, immigration and both local and federal wage and hour matters. He has also handled legislative and government matters.

Of Counsel, Labor & Employment Law
Practice Group

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Education
B.A., *Summa Cum Laude*,
Interamerican University, 1966

• Major: Economics

Undergraduate work at the Wharton
School of Business and Finance of the
University of Pennsylvania

J.D., University of Puerto Rico Law
School, 1969

Bar Admissions
Commonwealth of Puerto Rico
Washington
New York
U.S. District Court District of Puerto
Rico
U.S. Court of Appeals 1st Circuit
U.S. Court of Appeals 8th Circuit
U.S. Supreme Court

Memberships
Association of Labor Relations
Practitioners (Puerto Rico-Virgin
Islands)

Federal Bar Association
American Bar Association

He has been the spokesman and legal advisor in well over 100 collective bargaining negotiations representing management during more than 40 years. He has also acted as legal counsel in the administration, interpretation and application of dozens of collective bargaining agreements, including the handling of hundreds of arbitration cases and employee and union grievances. Mr. Torruella has also acted as legal advisor for management and has negotiated numerous employment termination agreements of high level executives.

He has used alternate dispute resolution vehicles to reach agreements with the opposing party. He has acted as a mediator, bringing parties to an agreement in a negotiated settlement. He has offered numerous seminars on labor and employment law subjects for the Puerto Rico Manufacturers' Association, the Society for Human Resource Management (SHRM), for the Employers' Committee of the Department of Labor of Puerto Rico and the Association of Labor Relations Practitioners (P.R. and U.S.V.I.), the Interamerican University, among other organizations, as well as for many clients of the firm.

He presided the Association of Labor Relations Practitioners (Puerto Rico-Virgin Islands) between 1984-86 and was a member of the Labor Advisory Committee to the Secretary of Labor and Human Resources of Puerto Rico from 1985 to 1988 under then Governor Rafael Hernández Colón. In 1994, then Governor Pedro Rosselló named him to the Governor's Special Advisory Counsel to Study the Feasibility of Organizing Public Employees.

Mr. Torruella is ranked as one of Puerto Rico's Leading Attorneys in the Labor & Employment field by the renowned international publication *Chambers & Partners* in its Latin America Guide.

During more than 40 years, he has handled numerous litigation matters, including oral arguments before Puerto Rico's Superior Courts, the Court of Appeals and the Supreme Court. He has also handled numerous cases, including oral arguments, before the Federal District Court for the District of Puerto Rico and the U. S. Court of Appeals for the First Circuit.

Among the many:

- *Pedro Alvarez y otros v. Serralles Hotel, Inc. d/b/a Ponce Hilton*: On June 26, 2012 the Superior Court, Ponce Part, issued its judgment granting our motion for summary judgment and dismissing with prejudice the claim for wrongful discharge and discrimination because of age.
- *Tomás Escobar v. The Ritz Hotel*: This complaint alleging age discrimination, retaliation and other causes of action was filed in the Federal District Court for The District of Puerto Rico. The Court granted The Ritz's motion to dismiss and compel arbitration based on a pre-employment arbitration agreement. Plaintiff appealed to the U.S. Court of Appeals for the 1st Circuit, and in March 2012, the 1st Circuit affirmed.
- *UPAGRA v. Univision of Puerto Rico (TV)*: Arbitration award issued on February 13, 2012 by the Puerto Rico Department of Labor, Bureau of Conciliation and Arbitration, confirming the Company's decision not to grant an employee's claim for wrongful work assignment.

- *Wilfredo Cruzado v. Univision of Puerto Rico (Radio)*: Arbitration award issued on December 11, 2011 by the Puerto Rico Department of Labor, Bureau of Conciliation and Arbitration, confirming the Company's decision to terminate an employee who had alleged wrongful termination.
- *Gilberto Feliciano Ortiz v. Honeywell*: In September of 2011, The Puerto Rico Labor Department, Anti-Discrimination Unit, issued its finding of no probable cause on Claimant's allegations of discrimination because of sex.
- *Departamento del Trabajo y Recursos Humanos v. Honeywell Aerospace*: On July 7, 2011 the Superior Court, Juana Diaz Part, issued its judgment dismissing with prejudice the case alleging wrongful termination after a full trial.
- *William Acevedo v. The Ritz-Carlton Hotel*: The Superior Court, Rio Grande part, on July, 2011 dismissed with prejudice this complaint alleging discrimination based on age, unpaid overtime and other causes of action, and arbitration was ordered on our motion to dismiss and compel arbitration.
- *Torres Rivas v. Honeywell*: The Superior Court, Juana Diaz Part, dismissed in July of 2011 this complaint alleging wrongful discharge and discrimination.
- *Diana Soto v. The Ritz-Carlton Hotel*: This Federal Court complaint claiming several million dollars for alleged discrimination based on disability and gender was dismissed, and our motion to compel arbitration was granted by the Federal District Court. The U.S. Circuit Court for the First Circuit affirmed the decision below in March of 2011 after oral argument.
- *Miriam Gómez v. Rural Opportunities, Inc. (Pathstone)*: This Federal Court complaint claimed several million dollars for alleged discrimination based on gender, age, retaliation and several other causes of action. Our motion for summary judgment was granted as to all claims, and the U.S. Circuit Court of Appeals for the First Circuit affirmed the dismissal with prejudice on February of 2011 after oral argument.
- *Maria Ramos v. Univision of Puerto Rico (TV)*: This complaint alleging discrimination because of age was partially dismissed with prejudice on our motion for summary judgment. The case eventually reached the Puerto Rico Supreme Court which, in a precedent-setting decision issued in February of 2010, affirmed the decision below and changed a many decades standard of not favoring motions for summary judgment in employment cases in Puerto Rico's local courts.
- *Yadira Tanco v. Univision of Puerto Rico (TV)*: This complaint in the Superior Court, Bayamon Part, alleged discrimination because of color. On our motion to dismiss, the complaint was dismissed with prejudice, and the Court of Appeals affirmed in September of 2010.
- *Joel Serrano v. The Ritz-Carlton Hotel*: During the course of this complaint filed in the Federal District Court, we obtained an order excluding the testimonies of reluctant-to-be-deposed Plaintiff witnesses and sanctions in the amounts of \$5,100 and \$2,500, respectively. Plaintiff eventually filed for voluntary dismissal with prejudice.
- *Newspaper Guild v. Univision de Puerto Rico*: The Union filed this complaint in Federal Court seeking to impeach an arbitrator's award favorable to the employer, related to bumping rights under the collective bargaining agreement. On our motion to dismiss, the case was dismissed with prejudice in 2010.
- *Carolina Gordon Padilla v. Ponce Serratés Hotel d/la Ponce Hilton*: This complaint filed in the Superior Court, Ponce Part, alleging sexual harassment was partially dismissed with prejudice in 2010 on our motion for summary judgment.
- *Alejandro Cabán Hernández et al. v. Philip Morris USA, Inc. et al.* (1st Cir. 2007): Successfully argued before the U.S. Court of Appeals for the First Circuit the defense of a favorable Summary Judgment issued by the U.S. District Court for the District of Puerto Rico. The case entailed a challenge to a Release and Waiver Separation Agreement executed by three former employees of Philip Morris, as well as a number of issues related to the Court of Appeal's jurisdiction, compliance with local federal rules of procedure, the concept of whether the releases had been signed "knowingly and voluntarily" and other related issues of law. The Court of Appeals opinion favored Philip Morris on all points and is dated May 1, 2007.
- *David Báez Portalatin, et al. v. Televisión de Puerto Rico, LLC*: Successfully defended before the Superior Court, Bayamón Part, and obtained a final favorable decision and opinion on April 20, 2007 before the Puerto Rico Court of Appeals. The decision dismissed with prejudice the complaint and granted Televisión's counterclaim for violation of the Separation Agreement. The case stemmed from a challenge to a Release and Waiver Separation Agreement executed by a high executive of the television station. Televisión also obtained a favorable and final order from the

- Superior Court, upheld by the Court of Appeals, under the 'tender back' clause of the Agreement.
- *Idali Echevarria v. The Shell Company (Puerto Rico) Ltd.*: Before the U.S. District Court for the District of Puerto Rico, successfully defended a multi-million dollar pregnancy and gender discrimination claim filed by a high company executive. The case culminated without the need to go to trial with the plaintiff filing for voluntary dismissal with prejudice after the plaintiff's deposition, taken over the course of three days, during which plaintiff's credibility was impeached to the point that opposing counsel was convinced he should not continue with the litigation. A judgment was issued by the federal court on December 4, 2006 dismissing all causes of action with prejudice.
 - *Mariela Hernández v. Televisión de Puerto Rico, LLC and Moisés Vélez*: Decided by the Puerto Rico Supreme Court on September 1, 2006. An adverse Superior Court's (San Juan Part) decision against Televisión after a full trial was overturned before the Puerto Rico Court of Appeals; subsequently, Televisión successfully defended the Court of Appeal's decision before the Puerto Rico Supreme Court, including the successful opposition to two motions for reconsideration filed by plaintiff. The opinion established case law and is one of first impression in Puerto Rico in the area of independent contractors and sexual harassment, under Puerto Rico's special anti-sexual harassment Act 17 of April 22, 1988, and in the area of employers' vicarious responsibility under Puerto Rico's Civil Code.
 - *Susanne L. Marte, et al. v. Pegasus Broadcasting of San Juan, Inc.*: Successfully defended before the Superior Court, Bayamón Part, and obtained a final favorable decision and opinion on June 10, 2005 before the Puerto Rico Court of Appeals. Also in 2005, Pegasus successfully opposed plaintiff's request for a writ of certiorari before the Puerto Rico Supreme Court. The final decision dismissed with prejudice the complaint and granted Pegasus' counterclaim for violation of the Separation Agreement. The case stemmed from a challenge to a Release and Waiver Separation Agreement executed by a high executive. Pegasus also obtained a final order from the Superior Court, upheld by the Court of Appeals, under the 'tender back' clause of the Agreement; this resulted in Pegasus eventually obtaining full repayment of all amounts previously paid to the lead plaintiff under the Agreement.
 - *De Hoyos v. Bristol-Myers Squibb*, 218 F. Supp. 2d 222 (D. Puerto Rico 2002): A Family and Medical Leave Act case dismissed with prejudice by the U.S. District Court for the District of Puerto Rico on Defendant's Motion for Summary Judgment.
 - *Alfonso Bru v. Trane Export Inc.*, 2001 DTS 129 (2001): Successfully requested review before the Puerto Rico Supreme Court of a reversal by the Court of Appeals. The Court of Appeals had reversed an order issued by the trial court requiring plaintiff to produce the documents related to an audit conducted by The Puerto Rico Treasury Department of plaintiff's income tax returns. The case stemmed from allegations of wrongful termination, age and national origin discrimination. The Caribbean Area Manager of the Company claimed approximately \$2.5 million in damages, loss of income and severance pay.
 - *Waldo Vázquez v. López Rosario and the Puerto Rico Maritime Authority*: U.S. Court of Appeals for the First Circuit, 1998 - Successfully represented the Maritime Authority before the Federal District Court, obtaining summary judgment, and before the U.S. Court of Appeals for the First Circuit, obtaining affirmation of the district court's summary judgment. The law suit involved a former high-level official. Plaintiff sued alleging that he was wrongfully terminated in violation of Puerto Rico's laws. He also claimed retaliation, violation of First Amendment rights and political discrimination; the claim was for approximately \$2 million.
 - *Rodriguez v. Doral Mortgage*, 57 F.3d 1168 (1st Cir. 1995): A sexual harassment case which we successfully defended before the U. S. District Court for the District of Puerto Rico and the U. S. Court of Appeals for the First Circuit.
 - *Odrizola v. Superior Cosmetics Distribution Corporation*, 116 D.P.R. 485 (1985): Participated in a precedent setting case of first impression under Puerto Rico's law on a number of issues under Puerto Rico's employment discrimination and workers' compensation statutes which the Puerto Rico Supreme Court eventually decided for plaintiff.
 - *De León v. Kimberly Clark*, 105 D.P.R. 933 (1977) before the Puerto Rico Supreme Court: A precedent setting case of first impression wherein the definition of a "commercial establishment" covered by the Puerto Rico's Closing Law was established for the first time; coverage under the Closing Law establishes a number of employer obligations and employee rights.
 - *Prinair v. Senator Nicolás Noguera, et al.*: In 1976 in the U. S. District Court for the District of Puerto Rico and the U. S. Court of Appeals for the First Circuit wherein, in a case of first impression

nationwide, injunctive relief was obtained against the Puerto Rico Legislature, the Labor Commission of the Senate of Puerto Rico and its nine member senators, enjoining them from subpoenaing Prinair's executives to force them to appear and testify before the Senate Labor Commission as to their strike contingency plan, finances and related topics, thereby intervening with Prinair's federal collective bargaining rights during a strike by its pilots' union.

Mr. Torruella served with the United States Army's 1st Special Forces Group (Airborne) ("Green Berets") in Vietnam during the 1960's. For many years, he was an avid SCUBA and sky diver; he continues to be an avid skier, star gazer and amateur radio operator, primarily in Morse Code transmissions; he is the holder of an F.C.C. Extra Class Amateur Radio License with the call sign KP4RAT.